

On Workmen's Compensation

Trend of Compensation Laws in Canada and the United States— Inclusion of Occupational Diseases—The Provinces Assume Liability—Prevention of Accidents.

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As I write, the annual report of the Workmen's Compensation Board of Ontario is before the public, as is also the intelligence that organized labor is asking for amendments to the law making it more generous to the victims of industrial casualties. The policy of the government will be announced before this article is in print, but a comparison of the general trend of legislation in the United States and Canada may throw some light on the public discussion.

The several Provinces of Canada and the several States of the Republic ran a free-for-all race with one another in passing these compensation laws. Few, perhaps, recognized how completely the legal assumptions in regard to accidents were reversed by them. The common law had supposed that when a man was injured at his work that some one was to blame. It might be his employer, it might be himself, or it might be his fellow-worker. It was left to the injured man, or to his heirs in case of his death, to enter suit for damages against the employer, and prove that his negligence or blundering had caused the accident. All this was cast aside by the new principle introduced. Accidents were regarded as being really accidents—unintended, inevitable things, to be treated as sicknesses and remedied rather than as crimes to be punished. The first, laws, on either side of the line, were modelled on the British employers' liability act. No administrative commission was appointed, but a costless inquiry by a judge awarded an indemnity to the victim or his widow and orphans, while suits for damages were usually permitted as well.

This trend of legislation, however, was altered for Canada by the Ontario law of 1914. Coming late among the Provincial laws, it was the result of an extremely careful investigation by a commission, and set a standard which has been generally adopted since by the other Provinces of Canada. It turned away from the British type of law and drew its provisions from the mutual-liability systems of Germany and the act of the State of Washington.

No single State of the Union has been successful in striking out a path which the other States have been willing to pursue. Hence the laws of the States are unstandardized and dissimilar as compared with those of Canada. Not, that the Canadian laws are at all replicas of one another or that the American laws are irreconcilable and contradictory among themselves. But there is much general resemblance in the Canadian laws and very little general resemblance in the United States laws. This fact makes our comparison easier from the Canadian angle than from the American angle.

In both countries practically all the Provinces or States possess such laws. Prince Edward Island is the only Canadian Province lacking one. Forty-five States have such laws, and in these are almost all the industrial States, and about eighty per cent of the population of the nation.

The first distinct difference to be noted is that in Canada the laws are all compulsory. Two-thirds of the States have non-compulsory laws. In these the industries are allowed to elect whether or not they will come under the law.

The benefits in Canada average higher than in the United States. Only the most liberal of the States come up to the level which is common in Canada. The indemnity is, in these few more liberal States, greater, but it is paid for shorter periods. The longer term during which the disabled worker or the widow of the man who was

killed receives benefits makes up for any comparative deficiency in the amount of the regular allowance. The rate in Canada for a widow is from \$20 to \$25 a month (Ontario makes it \$30), with an additional \$5 for each child (\$7.50 in Ontario). This payment is continued for a time equal to the probable industrial life of her deceased husband, or until re-marriage. For the children they cease at the age of 16. In the United States the payment ceases after a stipulated period of from 300 to 500 weeks.

In case of disability the compensation in Canada is 55 per cent of the employee's earnings, 50 per cent in Quebec. This continues during the period of disability, or, in the case of total disability, for life. Three Provinces limit the total amount which any beneficiary may receive. In the United States, such limitation of the total amount is the rule. Nearly half of the States, however, set the total disability allowance at 60 per cent, of the wages, which is higher than any in Canada.

The comparison is not easy in the case of partial disability, owing to the different systems under which the benefits are reckoned. In the United States elaborate schedules are common, assessing the proportion of disability due to each accident. The worth of the ring finger is measured against that of the index finger, and the loss of an eye is scaled against the dislocation of a shoulder. In Canada the custom prevails to base the compensation upon the loss of earning capacity, the payments being continued during incapacity. The several boards have power to make partial disability tables to assist them in determining the loss from any injury in percentages of total disability, and the age and occupation of the injured workman are taken into account.

The comparison is more favorable to the United States, from the point of view of the workman, in regard to the possible injuries which are covered by the law. A list is furnished in Canada of hazardous employments. The boards are commonly empowered to alter this list, either increasing or diminishing it. The considerations which move them are both the hazard of any industry and the possibility of collecting insurance premiums from the employers. Thus an industry which is in the hands of small employers, who hire only a few workers, is not likely to be enumerated, even though as hazardous as some other industries where the workers are massed in larger groups. On the other hand, two-thirds of the States do not limit the industries which the law affects.

Another feature of the United States laws more favorable to the worker is that medical and surgical services are more freely provided for the injured. The Canadian Provinces are rectifying their position here, and a number of them now furnish such aid under certain conditions.

Canada scores heavily, however, in including occupational diseases along with accidents. Here she followed the British practice. In a number of the States they are formally excepted. In others, though doubtless intended to be included, the interpretation of judges has banished them. In others they are not referred to. It is in but a few that they are included. The Canadian Provinces adopted the British schedule of occupational diseases; anthrax, lead, mercury, phosphorus and arsenic poisoning, and ankylostomiasis. In several Provinces additions have been made to the list.

The most significant feature of compensation legislation in Canada is the assumption of liability on the part of the Province. The claims are paid directly out of the accident fund in the hands of the board. Whether the employer has paid the premiums or not makes no difference to the man who is hurt. If the employer has defaulted in his obligation to keep his working force insured it is not left to the maimed employee or to widow of the slain employee to fight him in the courts. That duty devolves upon the board. It is not so in the United States. None of them assume liability. In the case of the insolvency of an employer and his insurance carrier the injured employee loses his compensation benefits.

Another advantage for the worker in Canada is that the compensation boards are much more free from judicial supervision than in the United States. In only two Provinces is an appeal allowed to the courts, and then only in regard to matters of law. In none of the States has the administrative board final jurisdiction. In every State there may be made appeal to the courts on matters of law, and in many of the States upon questions of fact as well.

In line with this is the greater permanence of the administrative boards in Canada. The members hold their positions for life or good behavior. In the United States the term of office is usually 2, 4, or 5 years. Moreover the Canadian boards have commonly more authority in appointing their officers and employees.

Finally, there is only one board in Canada having responsibility for accident prevention. It has been found in some of the States that the authority for preventing industrial casualties may be advantageously located with the compensation boards. Naturally, as accident prevention was in practice before the era of compensation laws, and the several bureaus of labor were doing their work honestly and faithfully, it was not thought wise to transfer this duty to a new and untried department. Something should be worked out, all the same, for harnessing the preventive and the curative engines together in combatting accidents.

It will be seen that, on the whole, Canada does not suffer by comparison with the United States. My information has been largely taken from an official publication of the U. S. Bureau of Labor Statistics. It will not be thought, therefore, to be unduly prejudiced in favor of Canada. It is equally apparent that it is not prejudiced in favor of the United States. Indeed, I speak for all Canadian students of industrial affairs when I acknowledge the impartial and truth-loving spirit in which the bulletins and reviews of that department of the United States government invariably treats of Canadian matters.

Edmonton, Alta.—The Alberta Motor Boat Company is building a forty-foot schooner for use in the far north, the vessel to be equipped with a 12-horse gas engine as auxiliary power. The same company is building two gas boats for the Imperial Oil Company for use in northern oil exploitation.

Winnipeg, Man.—The establishment of a chain of factories with headquarters here, for the manufacture of a patented wood fibre box has been announced, by the Wood Fibre Case Co., Ltd. The first factory will be built here this summer, and have an operating staff of from 25 to 30 men; other factories will be established subsequently in Calgary and Vancouver. The box manufactured by this company is made from pressed paper and wood screening with a reinforcement of metal.

Winnipeg, Man.—Farmers are looking forward to a large crop this year, according to a statement made by the Minister of Agriculture. "There will be plenty of moisture in the growth this year," he said, "because of the fact that the spring thaw has been slow and most of the water has been absorbed instead of running away."